

TRANSCRIPT OF PROCEEDINGS

Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

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In the Matter of: : CC Docket
Petition of WorldCom, Inc., Pursuant : No. 00-218
to Section 252 (e) (5) of the :
Communications Act for Expedited :
Preemption of the Jurisdiction of the :
Virginia State Corporation Commission :
Regarding Interconnection Disputes :
with Verizon Virginia, Inc., and for :
Expedited Arbitration :
:
In the Matter of: : CC Docket
Petition of Cox Virginia Telecom, Inc., : No. 00-249
Pursuant to Section 252 (e) (5) of the :
Communications Act for Preemption :
of the Jurisdiction of the Virginia :
State Corporation Commission Regarding :
Interconnection Disputes with Verizon :
Virginia, Inc., and for Arbitration :
:
In the Matter of: : CC Docket
Petition of AT&T Communications of : No. 00-251
Virginia, Inc., Pursuant to Section :
252 (e) (5) of the Communications Act :
for Preemption of the Jurisdiction :
of the Virginia Corporation :
Commission Regarding Interconnection :
Disputes with Verizon Virginia, Inc. :
:
- - - - - x Volume 3

Pages 656 thru 938

MILLER REPORTING COMPANY, INC.
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Washington, D.C. 20003
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Washington, D.C.
October 5, 2001

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Regarding Interconnection Disputes with :
Verizon Virginia, Inc. :
:
- - - - - x Volume 3

Friday, October 5, 2001
Washington, D.C.

The hearing in the above-entitled matter came on, pursuant to Notice, at 9:30 a.m.

BEFORE:

DOROTHY ATTWOOD, Arbitrator

KATHERINE FARROBA, Staff

JEFFREY DYGART, Staff

JOHN STANLEY, Staff

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1 P R O C E E D I N G S

2 MR. DYGART: Okay. If we could get
3 started, I think we will reconvene with subpanel
4 six on UNes. Those are issues IV-14, IV-15, and
5 possibly VI-1-E.

6 Yes?

7 MS. KELLEY: I have a housekeeping matter
8 that I would appreciate if we could address quickly
9 before we get going.

10 MR. DYGART: Okay.

11 MS. KELLEY: When we proposed the schedule
12 to you, we noted that next week that business
13 process came before pricing terms and conditions,
14 and further noted that the parties were discussing
15 whether or not we could flip them for witness
16 availability.

17 WorldCom's witness for business process
18 issues is appearing before the Florida Commission,
19 and was told yesterday that they expect her to be
20 there the entire day of the tenth. If we flip
21 them, I think that there is a very good chance that
22 the business process will start on the 11th in any

1 event, and it will be fine. But given the
2 Commission's admonition on Wednesday that everyone
3 should be here prepared to go when things get
4 started, I didn't to want to just assume that and
5 then have us get there and have her not be here.
6 And so I just wanted to raise this and see if
7 there's--

8 MS. FARROBA: Is there an objection from
9 anyone?

10 MS. FAGLIONI: We've talked about this,
11 and we've got several scheduling problems next week
12 as well. I think this one we've cleared, and I
13 think we could flip the panels. In any event, I
14 think we can agree that we can address those issues
15 Thursday, whenever they might otherwise naturally
16 come up, even if we flip the panels, I guess
17 theoretically we might race through some issues.

18 Having said that--

19 MR. DYGART: There's a possibility.

20 MS. FAGLIONI: You know, having said that,
21 as things start to play out next week, we are both
22 trying to accommodate each other in the schedules.

1 If worst comes to worst, we'll cross the people, if
2 we have cross for them when they are here, the
3 Commission could do the same.

4 MS. KELLEY: I just wanted to make sure
5 that was consistent with the Commission's schedule
6 as well.

7 MS. FARROBA: That's fine. We will work
8 with that. Especially, if you got an agreement on
9 how you would work it.

10 MS. FAGLIONI: If we're going to talk
11 about this, do you want to talk about rights-of-way
12 next week? On rights-of-way it's one issue
13 basically that's left on the rights-of-way. There
14 may be a subissue in there, but I think the
15 essential dispute is whether it goes--the
16 rights-of-way language is all agreed to. Does it
17 go in the Interconnection Agreement or is it a
18 separate agreement? The parties I think have all
19 agreed to waive cross on it.

20 It will save at least WorldCom and Verizon
21 bringing in an out of town witness into town, if
22 the staff also knows that it could waive cross, and

1 I think any questions they would have would
2 probably necessarily be legal questions given
3 that's where the issue is now.

4 MS. FARROBA: Let us just double-check on
5 that. I mean, that seems to make sense. Since
6 it's Thursday, if we could get an answer Tuesday,
7 would that be too late?

8 MS. FAGLIONI: No.

9 MS. KELLEY: I think that would be fine.

10 MS. FARROBA: Okay. Thank you.

11 Are there any other housekeeping matters
12 you want to raise at this point?

13 MR. GARY: We have an errata to
14 Mr. Antoniou's testimony.

15 MS. FARROBA: Okay. But, I guess, before
16 we do that, can we have the witnesses for subpanel
17 six--I'm not sure if we--I don't think we did this
18 yesterday--identify yourselves for the record,
19 please.

20 MR. ANTONIOU: Chris Antoniou for Verizon.

21 MR. LATHROP: Roy Lathrop, WorldCom.

22 MR. GOLDFARB: Chuck Goldfarb for

1 WorldCom.

2 MS. FARROBA: And I'll just note for the
3 record that all three witnesses had been previously
4 sworn and are still under oath.

5 MR. GARY: This is marked as Verizon
6 Exhibit 36. It adds Mr. Antoniou to the UNE panel.
7 And it also adds John White as a witness to the
8 unbundled network elements panel, but he sat here
9 the other day for the one issue, so I will pass
10 this out.

11 MR. DYGART: And I believe that on this
12 subpanel the parties had agreed to waive cross;
13 correct?

14 MR. GARY: Yes.

15 MR. DYGART: So we could start then with
16 staff questioning.

17 MS. FARROBA: Are there any objections to
18 Verizon Exhibit 36?

19 MR. FREIFELD: No objection.

20 MS. FARROBA: Okay. Verizon Exhibit 36 is
21 admitted.

22 (Verizon Exhibit No. 36 was

1 admitted into evidence.)

2 MR. GARY: Thank you.

3 MR. THAGGART: May I begin?

4 MS. FARROBA: Yes.

5 MR. THAGGART: Good morning. I'm Henry
6 Thaggart, an attorney-advisor in the Policy
7 Division, and I would like to begin with issue
8 IV-15, directed at the WorldCom panel. Excuse me,
9 at the Verizon panel.

10 Verizon, is WorldCom correct that Verizon
11 did not address the issue underlying issue IV-15
12 regarding whether the full features functions,
13 combinations, and capabilities requirement should
14 be memorialized in the Interconnection Agreement?

15 MR. ANTONIOU: I'm not sure exactly what
16 you mean by the question. Could you rephrase it?

17 MS. FAGLIONI: And I think we discussed
18 this a little bit off the record beforehand. You
19 are looking for where in his testimony he addressed
20 the issue, and it's not addressed--those particular
21 issues are not addressed in the UNE panel testimony
22 as it was filed. It was addressed in general terms

1 and conditions testimony, I believe, as opposed to
2 the UNE panel, the way that we ended up doing the
3 JDPL, and I think in our JDPL we referenced that
4 general terms and conditions testimony, and then
5 the errata, which was the exhibit we just admitted
6 makes a clear reference back to the general terms
7 and conditions testimony.

8 MR. THAGGART: Thank you I just wanted
9 that noted for the record.

10 MR. FREIFELD: I wonder for the record,
11 could you provide the page references? You
12 provided reference to the testimony.

13 MR. GARY: Page 45 of the general terms
14 and conditions panel mediation direct testimony.

15 MS. FAGLIONI: And the JDPL.

16 MR. THAGGART: Thank you.

17 Moving on to issue VI-1-E, the question is
18 directed at Verizon.

19 Verizon proposes a 45-day review period or
20 negotiation period when a change of law provision
21 would involve a UNE. Is that correct?

22 MR. ANTONIOU: Not exactly. If you would

1 like, I would walk it through.

2 MR. THAGGART: Yes.

3 MR. ANTONIOU: As a compromise Verizon has
4 tried to take into account some concerns that
5 WorldCom had. We understood the main concern that
6 WorldCom had about Verizon ceasing to provide a
7 benefit or a service once the Commission has
8 determined that an effective order that Verizon
9 need not do so, is that that might happen too
10 quickly. WorldCom is concerned that Verizon or
11 another carrier might inappropriately look at an
12 order and determine that it no longer needs to
13 provide a service or benefit and wants to have some
14 ability to make sure that doesn't happen.

15 Verizon conversely is very concerned that
16 if Verizon's ability to cease providing a service
17 or a benefit is premised on the CLEC deciding that
18 Verizon can cease providing it, that in many cases
19 if not all cases, at least with some CLECs, Verizon
20 will never be able to stop providing it. Or, if it
21 goes to dispute resolution, it could take a
22 significant period of time.

1 So what Verizon has suggested is the
2 following. If Verizon is not required to provide a
3 service or benefit, say, by variety of an order of
4 the Commission that's effective, I think back to
5 the UNE Remand Order, for example, where certain
6 items that have been network elements before that
7 Verizon was required to provide cease being network
8 elements; that if the order has some sunset period,
9 we give effect to it. If it says six months from
10 the effective date of the order, Verizon--other
11 ILECs no longer required to provide this item,
12 fine, that would apply.

13 Alternatively, if there is no date, the
14 order comes out and it says, Verizon, you are no
15 longer to provide X, Y, or Z, at the very least
16 we're going to say we are going to provide a 45-day
17 period from the date upon which we give notice to
18 the carrier that it's our intent to no longer
19 provide the service, and during that period,
20 notwithstanding any other dispute resolution
21 mechanics from the contracted carrier from day one,
22 the day they receive the notice could go to the

1 Commission and say we think Verizon is wrong, tell
2 them they can't stop providing it. They
3 misconstrued it.

4 So it's not our intent to be able to do
5 something that we don't have a right to do. Our
6 intent is to be able to give effect to what the
7 Commission might do in the future. So that's one
8 piece.

9 MR. THAGGART: Let me ask you specifically
10 about the 45-day period. I think the testimony you
11 just gave is well-documented in your filings, but I
12 want to specifically focus on the 45-day period.

13 Does that 45-day period, is that
14 all-inclusive? Does it anticipate and include the
15 appeals process, for example, to the state or the
16 FCC or would there be an appeal process period
17 after the 45 days?

18 MR. ANTONIOU: I'm not sure that I have
19 done a good job of explaining the process. This is
20 how it would be.

21 There is an order that says today, October
22 5th, Verizon is no longer required to provide a

1 particular item, a UNE. It's effective right now.
2 We're no longer required. We studied that order.
3 It takes us a week or two to decide what we want to
4 do. We decide that we are not going to provide it
5 anymore.

6 So, we send notices to the various
7 carriers out there and tell them that 45 days from
8 the date of the notice, that's what we are going to
9 do. If the carriers think we are right, then that
10 will happen. If we think they are wrong, then they
11 would have the right the day they get the notice
12 from us to go to the Commission and say, we think
13 Verizon is wrong; they shouldn't be able to stop
14 providing this particular service. We would like
15 you to tell them they may not do so. In the
16 contract, in fact, it envisages that--it
17 specifically says we may go--the CLEC may go to the
18 Commission and ask for Verizon to stop--not stop
19 providing the service. And if that's the case,
20 then we go through the dispute resolution process
21 to determine what to do.

22 I mean, this is something that wouldn't

1 come up very often but if it comes up, for example,
2 the resip comp issue with internet traffic
3 recently--I would like speak to the resip comp
4 issue, though.

5 MR. THAGGART: Let me finish this line of
6 questioning, first. I fully understand what you
7 said thus far. I guess my question regards what
8 happens on the 44th day if WorldCom has not gone to
9 the FCC or the state yet, and WorldCom and Verizon
10 has not reached an agreement. What would happen on
11 that 44th day? Is there a period of time
12 anticipated to permit WorldCom to appeal or should
13 WorldCom do that within the 45-day period? Tell me
14 what you're proposing specifically with regard to
15 the 45 days.

16 MR. ANTONIOU: I propose that they have a
17 45-day period from the date they receive notice
18 from Verizon to go if they wish to the Commission,
19 come to us, but most likely they would go to the
20 Commission and say we don't think Verizon should be
21 able to take this action. If they don't take any
22 action to go to the Commission, and in fact, have

1 Verizon not do this, then that 45th day, Verizon
2 may cease providing the service.

3 MR. THAGGART: What about transitioning
4 customers? Same question. Is the transition
5 period or shifting period for the end customers
6 anticipated or included within this 45-day period,
7 or is there a separate period after the 45 days for
8 transitioning the NCLEC customers?

9 MR. ANTONIOU: Verizon certainly does not
10 wish there to be any outage, any disruption with
11 customers. The way that I see a typical example
12 may be coming up is that if a particular service
13 that we are required to provide now, or UNE I
14 should say that is required to provide now is no
15 longer required, it could very likely still be
16 provided but not at UNE rates, and Verizon will
17 certainly be amenable, depending on the
18 circumstances to look at doing that, and that's
19 what Verizon would then negotiate with the other
20 carrier.

21 MR. THAGGART: Sir, I simply don't
22 understand your answer.

1 MR. ANTONIOU: I would like to explain.

2 MR. THAGGART: What happens on the 45th
3 day if the customers have not yet been
4 transitioned? Is there a period of time afterwards
5 that would permit a reasonable transition, or
6 should the transition take place in the 45 days? I
7 simply did not understand.

8 MR. ANTONIOU: Absent agreement by the
9 parties, then that would be the transition period,
10 45 days.

11 MR. THAGGART: Thank you.

12 WorldCom, have you determined how much
13 time would be required to negotiate appeal, if
14 necessary, and transition customers?

15 MR. LATHROP: No, we haven't proposed a
16 separate amount of time. Our concern in the
17 testimony was that 45 days may be too short.

18 Now, in sort of the worst case scenario
19 where we have tens of thousands of customers that
20 we are providing service to, using an element or
21 combination that Verizon is then no longer
22 required, we would hope that the FCC would provide

1 some sort of sunset date, and I guess in that sense
2 those situations may be separate from this
3 particular issue.

4 The concern is really what you addressed,
5 whether 45 days is sufficient for us to either
6 transition the customers if there is no sunset date
7 mentioned, or sufficient time for an appeal to
8 extend the time required.

9 MR. THAGGART: Okay.

10 MR. GOLDFARB: You had raised in the
11 questions the two issues. The first is what is the
12 time period required if we disagree with the
13 interpretation that Verizon has that it is no
14 longer required to provide a UNE, and in that case
15 very frequently whatever appeal process we would
16 have at the state level or at the federal level is
17 likely to take more than 45 days to be resolved,
18 and it certainly would be necessary for us to have
19 that full period that we continue to get the UNE
20 during that full period of the appeal process. So,
21 that's decided whether it would be decided in
22 Verizon's favor or ours.

1 Then the second issue is if at this point
2 the decision is made or if we have not appealed it,
3 what is the time period that is required to be able
4 transition customers so there would be no loss in
5 service to the customers? And obviously, as
6 Mr. Lathrop indicated, that--how much time exactly
7 is needed would depend on how broadly that UNE is
8 being used. Obviously something like loops would
9 be something that require an extensive amount of
10 time.

11 MR. THAGGART: Thank you.

12 I would now like to ask WorldCom about the
13 Verizon anti-gaming provision. This is also under
14 issue VI-1-E.

15 Does WorldCom oppose the actual wording of
16 the anti-gaming provision, or is it the policy that
17 you're arguing against which prevents WorldCom from
18 competing for the Verizon customers that have
19 purchased special access services?

20 MR. LATHROP: Well, certainly the policy,
21 and I'm not sure exactly which section in the
22 contract, but the--my understanding is Verizon's

1 language could be interpreted to mean that a
2 customer would be forever locked up by Verizon. If
3 Verizon would need to build facilities to serve a
4 customer, we feel as a nondiscrimination issue,
5 they should build facilities for us to serve the
6 customer. What Verizon calls an anti-gaming
7 provision says that if we need to build facilities,
8 then that customer can never migrate to you, to a
9 CLEC, or at least the language could be read that
10 way, and that's our concern.

11 MR. THAGGART: Well, is it possible for
12 you to propose--I don't want to put you on the spot
13 here, but propose maybe off-line some specific
14 limitations on the--on WorldCom's ability to
15 compete for those customers, propose some language
16 there?

17 MR. GOLDFARB: We don't agree with the
18 interpretation of the Act that Verizon is using as
19 a basis for that. Verizon pays no attention to the
20 nondiscrimination rules in effect and says that it
21 has a right to build new facilities for its
22 customers, but we have no right to have them build

1 new facilities for us. It is the interpretation of
2 nondiscrimination clauses, of nondiscrimination
3 rules that they would have to, if they are willing
4 to do special construction or whatever buildout for
5 a new facility for their own customer, then they
6 must be willing to do it for us.

7 MR. THAGGART: Are there any follow-up
8 questions?

9 Thank you. I believe those are all my
10 questions for now.

11 MR. GARY: Just one follow-up question.

12 Mr. Antoniou, for 45 days, I take it the
13 Commission has decided something. Verizon is
14 trying to implement it. What is the 45 days for?

15 MR. ANTONIOU: The 45 days are designed to
16 ensure that the other carrier, if it believes that
17 Verizon is wrong in its view that the Commission
18 has decided the issue, that the carrier can go to
19 the Commission and say we think Verizon is wrong,
20 and if, in fact, we're wrong, I would expect the
21 Commission would tell us that, and say--at least if
22 there is some likelihood that we are, that this

1 would be docketed and the facts would be further
2 reviewed. And in the meantime, we would have to
3 continue to provide the service.

4 So, my view of the 45-day period, and this
5 came up in the context of our mediated negotiations
6 with WorldCom, to provide WorldCom some comfort
7 that there won't be a situation where Verizon would
8 cease providing a service that it, in fact, still
9 has an obligation to provide.

10 MR. GARY: So, this is sort of--you're not
11 going to do a flash cut change to the new law.
12 You're going to phase it in, you're going to give
13 them some time to prepare for it?

14 MR. ANTONIOU: Exactly. Now, if there is
15 a sunset period built in, a six-month period, for
16 example, then that's what we give effect to.

17 But if the Commission looked at an issue
18 and analyzed it and said, "Effective right now you
19 don't have to do it anymore right now, Verizon,"
20 notwithstanding that, at the very least we are
21 going to provide 45 days more than that so the
22 other carrier has comfort there won't be a flash

1 cut, that they would be able to exercise whatever
2 procedural rights think they are appropriate in
3 that circumstance.

4 MR. GARY: No further questions.

5 MR. FREIFELD: I wonder if I could ask one
6 follow-up, as well.

7 Assume at the end of the 45 days the
8 Commission confirms that Verizon's interpretation
9 is correct, that, indeed, this element no longer
10 needs to be provided. Does there need to be a
11 transitional period nonetheless in order to prevent
12 interruption of service?

13 MR. LATHROP: Yes, there very well could
14 be so as to prevent customers from being out of
15 service.

16 MR. FREIFELD: Thank you.

17 MR. DYGART: Thank you. I think that
18 concludes our work on UNE panels. This subpanel is
19 excused.

20 MR. STANLEY: I have some questions on
21 issue IV-14. I understand the parties have waived
22 cross-examination on this in some of the

1 briefing--in some of the testimony. This section
2 is kind of characterized by WorldCom as relating to
3 just definitions. There is some suggestion that
4 this is just a definitional section. But it's
5 obvious that this section contains a lot more than
6 just definitions, paraphrasing, FCC rules or
7 orders.

8 So, I will have to go into actually quite
9 a few specific questions about the access to IDLC
10 loops, loop qualification information, things like
11 that contained in WorldCom's proposed language.

12 I just wanted to make sure before I went
13 down that road that the parties thought that
14 was--this is what this section does cover. It
15 appears to me that this section, the language
16 proposed by WorldCom under issue IV-14 does cover a
17 number of substantive advanced services-related
18 issues. Is that WorldCom's understanding first?

19 MR. LATHROP: Well, to some extent there
20 are a number. Our original intent was to include
21 in the contract those provisions from the UNE
22 remand advanced services and line sharing orders.

1 Certain issues have been addressed in certain
2 issues such as dark fiber, subloop, and line
3 sharing, and they have been assigned to separate
4 issues. So, I can't tell without hearing your
5 questions whether they were sufficiently separated
6 to make it clear.

7 In addition, we sent a letter to the FCC
8 on July 19th recasting two of those issues that are
9 on the advanced services panel following this,
10 issues IV-28 and III-10 on line sharing. I
11 understand we are very close to agreement with
12 Verizon to resolve both of those issues, and I had
13 hoped we were going to take a break after this
14 panel to see whether to some extent we could narrow
15 those. But given all that, the answer--that's my
16 understanding of issue IV-14.

17 ARBITRATOR ATTWOOD: Is there value in
18 postponing this panel until after the advanced
19 services panel so that issues can get resolved if
20 this is just definitional rather than belabor the
21 definitional points that are going to be decided
22 substantively or discussed substantively in the

1 advanced services panel? Maybe we could--would you
2 be willing to remain until after the advanced
3 services panel just in case we have additional
4 questions after those?

5 MR. STANLEY: I think if the parties agree
6 to that, we could do that. Another option, I could
7 go through these questions and you could identify
8 which ones you think would be changed by your
9 ongoing negotiations, but it might make sense if
10 WorldCom's proposed language is really going to
11 change substantially, then based on your
12 negotiations, then maybe these questions would be a
13 waste of time.

14 MR. LATHROP: I would say to the extent
15 that they address issues related to advanced
16 services, it probably would be productive to take a
17 break and let you know what, if any, resolution we
18 have.

19 ARBITRATOR ATTWOOD: For the record, none
20 of our questions are ever a waste of time, so I
21 won't ask you to testify to that, but let's take a
22 five-minute break. Thanks.

1 (Brief recess.)

2 ARBITRATOR ATTWOOD: Why don't we get
3 started again, please.

4 For purposes of the record, we are going
5 to move the panel issue IV-14 until after the
6 advanced services panel because of the hope that
7 some of the questions that we have for the panel on
8 IV-14 will be answered through the panel on
9 advanced services.

10 And to give a further explanation for the
11 nature of the questions that we will ask for
12 purposes of the panel that is here, John, would you
13 want to give just a general contour of the
14 questions that we will ask again after the advanced
15 services panel.

16 MR. STANLEY: Sure. This is just to make
17 sure that we are asking questions of the right
18 panel. Some of the areas of questions I had
19 related to WorldCom's proposed language on the loop
20 qualification process, and this is in Section 4 of
21 the proposed language under issue IV-14, so some
22 loop qualification questions. There is some

1 proposed language about Spectrum Management, Binder
2 Group Management and things like that.

3 And I believe that this is the only issue
4 that this proposed language from WorldCom falls
5 under. I could be wrong, but I'm not sure if it
6 was addressed by the WorldCom advanced services
7 panel.

8 ARBITRATOR ATTWOOD: We will take that up.
9 That wasn't a question. We will take that up
10 after, but that's the nature of the questions,
11 okay? So, why don't we move on to advanced
12 services.

13 MS. FARROBA: I believe Verizon will start
14 the cross-examination.

15 MR. DYGART: Back on the record. We are
16 now beginning our panel on advanced services,
17 issues III-10, IV-28, V-6, and V-9. Advanced
18 services and resale.

19 And I gather from the witnesses at the
20 table that Verizon is doing cross first of WorldCom
21 and AT&T.

22 MS. McCLELLAN: That's right.

1 MS. FARROBA: Just a second. Can we have
2 the witnesses for AT&T and MCI identify themselves
3 for the record, please.

4 MR. LATHROP: Roy Lathrop, WorldCom.

5 MR. PFAU: Mike Pfau, AT&T.

6 MS. FARROBA: Also, I would like to note
7 for the record these witnesses had been previously
8 sworn and are still under oath.

9 MS. McCLELLAN: I believe before we
10 started, WorldCom wanted to make a statement about
11 where the parties are in their negotiations on the
12 advanced services issues.

13 MS. SCARDINO: I'm Kimberly Scardino
14 representing WorldCom. We have reached agreement
15 with Verizon on issue III-10 with the exception of
16 one contract provision relating to
17 nondiscriminatory access to DSL loop served out of
18 remote terminals or partially fiber copper loops.

19 The issue--all other issues in III-10 have
20 been resolved between WorldCom and Verizon. On
21 issue IV-20--

22 MR. STANLEY: Under the existing issues

1 and subissues that we have in the JDPL, which
2 subissue is that that hasn't been resolved?

3 MS. SCARDINO: That has not been resolved?
4 On page 66 of the JDPL WorldCom had proposed
5 contract language, it's Section 4.10. You could
6 read the language. It says--

7 MR. STANLEY: I'm sorry, the pagination
8 might not correlate. Does this correspond to an
9 issue like III-10-something?

10 MR. FREIFELD: The WorldCom issues weren't
11 separated with letters after the number 10.

12 MR. STANLEY: There wasn't III-10-1?

13 MR. RUBIN: Those are AT&T issues, John.

14 MR. STANLEY: III-10-1 was a WorldCom
15 issue, III-10-2 was a WorldCom issue?

16 MR. FREIFELD: I stand corrected.

17 MS. SCARDINO: One minute. Let us check
18 on that.

19 (Discussion off the record.)

20 MS. SCARDINO: It's issue III-10-4 in the
21 JDPL.

22 MR. DYGART: III-10-4 is all that remains

1 of WorldCom's issue III-10?

2 MS. SCARDINO: Yes, that's correct.

3 MR. DYGART: And correcting one thing that
4 I said earlier, we have deferred from this panel
5 issue V-6, so does that conclude the preliminary
6 things?

7 MS. SCARDINO: We also wanted to make a
8 statement about issue IV-28 in general.

9 MR. DYGART: All right.

10 MS. SCARDINO: We also believe that we
11 have reached an agreement in principle on that
12 issue, and we simply have a contract language
13 dispute at this time. We don't believe that it's
14 necessary to have any questioning. We certainly
15 don't have any questioning of the Verizon panel on
16 this issue, but our witness is certainly available
17 for questioning. We are really--just have a
18 contract language dispute on IV-28, which in the
19 JDPL is just listed as IV-28.

20 MR. DYGART: And is the language you still
21 have a dispute about new language or what we
22 currently have?

1 MS. SCARDINO: It's the language that's
2 currently in the JDPL.

3 MS. McCLELLAN: To clarify for the record
4 on the issue III-10 on the line sharing and line
5 splitting in general, what the parties have done is
6 negotiated using Verizon's language with WorldCom's
7 modifications.

8 On the issue of IV-28, we have--WorldCom
9 had originally proposed language on co-location of
10 packet switching equipment, which is in the JDPL,
11 and Verizon has language on co-location of
12 equipment in general, which is also in the JDPL, so
13 that's still two competing provisions.

14 But as far as all of the III-10 issues,
15 you have Verizon's language as modified by
16 WorldCom, and we've reached agreement on all of
17 their modifications, except for the
18 nondiscrimination language that was referred to.

19 And it is Verizon's belief that that
20 issue, because it deals with the upgrade of remote
21 terminal facilities, is related to the issue,
22 AT&T's NGDLC issue, V-6, has been deferred.

1 MR. DYGART: Does WorldCom agree with
2 that?

3 MS. SCARDINO: We agree that it's related
4 to that issue. However, we wanted to have an
5 opportunity to review the AT&T/Verizon agreement,
6 where they defer the issue. So, if we could just
7 get back to you after we review that to make sure
8 that it's thoroughly covered there, we could
9 certainly get back to you today on that.

10 MR. DYGART: Okay. I guess what I'm
11 trying to decide now is what we should be having
12 cross-examination on and arbitrating at this point
13 because I'm unclear from--well, between these two
14 parties I'm unclear from WorldCom's description of
15 IV-28 whether your contractual dispute is one that
16 you all are still planning on working out or
17 whether you need the Commission's help at this
18 point.

19 MS. SCARDINO: We need the Commission's
20 help on IV-28.

21 ARBITRATOR ATTWOOD: For the record, AT&T
22 has not settled?

1 MR. RUBIN: That's correct.

2 ARBITRATOR ATTWOOD: So, we move forward.

3 CROSS-EXAMINATION

4 MS. McCLELLAN: Good morning, Mr. Lathrop
5 and Mr. Pfau. I'm Jennifer McClellan, representing
6 Verizon, and I'm going to start my cross on issue
7 III-10 mostly or almost exclusively with Mr. Pfau.

8 I would like to start, I'm going to be
9 going through your direct testimony which I believe
10 is AT&T Exhibit 2. I'm going to start at page 96.
11 And on page 96, you have a definition--starting on
12 page 95 and going to 96, you have a definition of
13 line splitting.

14 Do you see that?

15 MR. PFAU: Yes, I do.

16 MS. McCLELLAN: And are you familiar with
17 the FCC's line sharing reconsideration order?

18 MR. PFAU: Yes, I am.

19 MS. McCLELLAN: And are you familiar with
20 paragraph 19 of that order which identified the
21 FCC's definition of line splitting that was
22 required?

1 MR. PFAU: Are you asking me if I could
2 repeat it from memory? No. I've read it many
3 times.

4 MS. McCLELLAN: Okay. I'm going to give
5 you a copy of that because I'm going to have one
6 question, and I just want to make sure that you
7 have that paragraph in mind.

8 May I approach?

9 (Document handed to Mr. Pfau.)

10 MS. McCLELLAN: Could you take a minute
11 just to review that.

12 (Mr. Pfau reviews document.)

13 MR. PFAU: Okay.

14 MS. McCLELLAN: In paragraph 19, the FCC
15 describes a scenario of line splitting where a
16 UNE-P provider can order an unbundled DSL-capable
17 loop terminated to a co-located splitter and DSLAM
18 equipment and unbundled switching combined with
19 shared transport to replace its existing UNE
20 platform arrangement.

21 Do you see that?

22 MR. PFAU: Yes, I do.